



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 29126540

Date: JAN. 18, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a filmmaker, producer, editor, and director, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner satisfied the initial evidence requirements for this classification by demonstrating his receipt of a major, internationally recognized award or by submitting evidence to satisfy at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide

sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner stated he is a renowned filmmaker, producer, editor, and director with over 30 years of experience in the film industry. He will continue to work in the United States as a filmmaker and provide comprehensive training courses in filmmaking, acting, editing, and directing. Because the Petitioner has not sufficiently shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claims to have satisfied these criteria, summarized below:

- (i), documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- (ii), membership in associations requiring outstanding achievements of their members
- (iii), published material about the individual in professional or major media
- (iv), participation as a judge of the work of others in the same of allied field
- (vii), display of his work in the field at artistic exhibitions or showcases
- (viii), evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation

In denying the petition, the Director determined that the Petitioner submitted evidence related to six of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and concluded he satisfied only one criterion. Specifically, the Director concluded that the Petitioner met his burden to demonstrate display under 8 C.F.R. § 204.5(h)(3)(vii). We will not disturb the Director's determinations regarding the Petitioner's display of his work. But for the reasons discussed below, we agree with the Director that the Petitioner has not satisfied the other claimed criteria.

A. Evidentiary Criteria

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

To satisfy this criterion, the Petitioner must demonstrate he has received lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. When determining whether an individual has received lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor, we consider factors such as: the criteria used to grant the awards

or prizes; the national or international significance of the awards or prizes in the field; and the number of awardees or prize recipients, as well as any limitations on competitors. *See generally* 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policymanual>.

The Director determined that the Petitioner did not establish that any of the awards qualify as nationally or internationally recognized prizes or awards for excellence in the field. We agree with that determination.

The Petitioner stated he won several awards and prizes at national and international film festivals as a director. He submitted copies of certificates, letters, and awards as follows:

- Silver [redacted] award at the [redacted] Film Festival 2005
- Award Certificate for Best Short Film at the [redacted] Film Festival 2003
- [redacted] award in 2000
- Silver Medal award from [redacted] in 2000
- Letter of Appreciation from the [redacted]
[redacted] regarding the golden prize award the Petitioner received in the [redacted] Festival
- Award Letter for the best first and second film directed by the Petitioner from the [redacted]
[redacted] Film Festival
- Award Letter from the [redacted] Festival of Film in 2003
- Letter of Appreciation from the [redacted] Film Festival
- Letter of Appreciation from the [redacted]
- Letter of Appreciation from the [redacted]

The Petitioner did not provide any information regarding several of the awards and letters of appreciation, which could have helped us understand the type of award actually granted. For example, while several of the certificates, such as the ones from the [redacted]
[redacted], were printed in foreign languages, they were not accompanied by certified English translations, as required. 8 C.F.R. § 103.2(b)(3). Because the Petitioner did not submit a properly certified English language translation of the documents, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims. In addition, the Petitioner submitted letters of appreciation prepared by the organizers of various festivals, yet it is not clear from the letters what type of awards were granted, nor does the Petitioner provide additional evidence regarding those awards.

On appeal, the Petitioner asserts he won several awards from prestigious film festivals, that the awards were both nationally and internationally recognized, and that they were bestowed upon him for his excellence in the field as a director. Though the Petitioner submits general information regarding some of these film festivals on appeal, that information was derived mainly from *Wikipedia*, an online, open-source collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content.¹ The regulatory language requires that the prizes or awards be nationally or internationally recognized. The reputation of the organization holding a given competition does not necessarily establish that a given

¹ See General Disclaimer, Wikipedia, https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer (last visited January 18, 2024); see also *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

prize or award from that competition is nationally or internationally recognized.² In this respect, although the Petitioner submitted general background information regarding some of the awarding entities, he has not submitted sufficient evidence regarding the competitions' awards themselves. The record does not fully explain, or present evidence, regarding the selection processes. Nor does it contain sufficient information or supporting evidence about the competition that would support the Petitioner's claim that these awards should be considered a national or international award for excellence in the field of filmmaking. Absent, for example, information regarding the number of competitors in the Petitioner's category, evidence explaining how the awarding bodies selected the awardees, or evidence of the level of recognition associated with these awards, we cannot find that the Petitioner has satisfied each element of the criterion.

For the reasons stated above, the Petitioner does not meet this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner maintains that he meets this criterion based on membership with the: [redacted]
[redacted] (2) [redacted] and (3) [redacted]
[redacted] The Petitioner explained that he is also the founder of the [redacted]
On appeal, the Petitioner contends that these three associations constitute a "subset" of the [redacted]
[redacted] and therefore follow the rules and regulations of that group.

In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.³ The Director determined that the Petitioner did not submit documentary evidence demonstrating that outstanding achievements are required for membership in those organizations, or that they rely on recognized national or international experts to determine which individuals qualify for membership.

As noted by the Petitioner on appeal, inclusion into these associations is based on the [redacted] rules and regulations. However, nothing in the submitted documentation corroborates the claim that the Petitioner's three associations follow the membership requirements of the [redacted]. Even though the submitted documentation does not corroborate the claim that the three associations follow the [redacted] rules and regulations of, we will still review this claim. According to these rules and regulations, an applicant who wishes to become a member of the association must submit at least three films that collectively total 120 minutes, one of which must have been made within the last three years; a copy of a birth certificate; a copy of a national identification card; and a receipt demonstrated they deposited 100,000 tomans to the trade association. So while it appears that membership in the

² The regulation specifically requires national or international recognition of the prize or award; the reputation of the awarding entity does not suffice. The *USCIS Policy Manual* acknowledges this distinction, indicating that "[c]ertain awards from well-known national institutions" "may" qualify under 8 C.F.R. § 204.5(h)(3)(i). See generally 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policy-manual>.

³ See generally 6 *USCIS Policy Manual*, F.2(B)(1), <https://www.uscis.gov/policy-manual> (providing guidance for the evaluation of evidence submitted under 8 C.F.R. § 204.5(h)(3)(i)-(x)).

Petitioner's organizations is held by individuals that submit an application and who provide evidence of directing three films and additional administrative requirements, the record does not show that membership also requires outstanding achievements.

For these reasons, we agree with the Director's finding that the Petitioner did not establish that he meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

USCIS first determines whether the published material was related to the person and the person's specific work in the field for which classification is sought.⁴ The published material should be about the person, relating to the person's work in the field, not just about the person's employer and the employer's work or another organization and that organization's work.⁵ USCIS then determines whether the publication qualifies as a professional publication, major trade publication, or other major media publication.⁶

The record reflects the Petitioner submitted a photocopy of an article entitled, [REDACTED] [REDACTED] posted in the *Iran* on [REDACTED] 2005. Aside from the title, we cannot read the article because it is illegible. Though it does appear as though the article discusses an award granted to the Petitioner, it is simply not possible to fully read it. In similar fashion, several of the remaining articles are insufficient to carry the Petitioner's burden because the record contains only translations of excerpts, rather than translations of the entire articles. For example, the Petitioner provided an excerpt of the articles posted in *Soureh Cinema* and in *Shargh*. The Petitioner is required to submit complete evidence that is legible and contains the necessary translation.

The Petitioner submitted two additional articles posted in *Iran* from 2013 and 2016 where the Petitioner was interviewed regarding his work in the film industry. Although these articles are published material about the Petitioner and relating to his work in the field, the Petitioner did not sufficiently demonstrate the publication qualifies as major media. The Petitioner submits a print-out from *Wikipedia* that stated, in part, that *News* is a daily newspaper launched in 1995 and with a circulation of 165,000 in 2015. As noted above, *Wikipedia* is an online open-source collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content.⁷ Moreover, the Petitioner did not submit circulation statistics or data to compare the circulation of this publication with others to establish that it represents major media. In addition, the circulation data is from 2015 but the articles about the Petitioner were published in 2013 and 2016, therefore, the Petitioner did not provide circulation data at the time of publication to determine if the articles were published in major media.

⁴ See generally 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual>.

⁵ *Id.*

⁶ *Id.*

⁷ See General Disclaimer, Wikipedia, https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer (last visited January 18, 2024); see also *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

The Petitioner also submitted an article entitled, [REDACTED] posted in *Tehran Times* on [REDACTED] 2006. Although this article is published material about the Petitioner and relating to his work in the field, the Petitioner did not sufficiently demonstrate the publication qualifies as major media. The Petitioner submits a printout from *Wikipedia* that stated, in part, *Tehran Times* is a daily newspaper founded in 1979 and headquartered in Iran. Again, *Wikipedia* is an online open-source collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. Moreover, the Petitioner did not submit circulation statistics or data to compare the circulation of this publication with others to establish that it represents major media.

For the reasons discussed above, the Petitioner did not show he meets every element of this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The Director determined the Petitioner did not meet this criterion. This regulatory criterion requires a petitioner to show that he has acted as a judge of the work of others in the same or an allied field of specialization. In support of this criterion, the Petitioner provided sufficient evidence of having been a member of the juries for the [REDACTED]

[REDACTED] Accordingly, we hereby withdraw the Director's determination that the criterion was not met.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

As discussed earlier, the Director found that the Petitioner satisfied this criterion. We will not disturb the Director's determinations regarding the Petitioner's display of his work.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

To meet the plain language requirements of this criterion, a petitioner must establish that they have performed in either a leading or critical role, and that the role was for an organization or establishment (or a division or department of an organization or establishment) with a distinguished reputation. A leading role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. A title, with appropriate matching duties, can help establish whether a role is or was, in fact, leading. See generally 6 *USCIS Policy Manual* F.2(B)(2)(Appendices), <https://www.uscis.gov/policymanual>. In addition, this criterion requires that the organization or establishment be recognized as having a distinguished reputation. USCIS policy reflects that organizations or establishments that enjoy a distinguished reputation are "marked by eminence, distinction, or excellence." See generally *id.* (citing to the definition of *distinguished*, *Merriam-Webster*, <https://www.merriam-webster.com/dictionary/distinguished>). The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

On appeal, the Petitioner does not provide additional evidence to overcome the Director's decision and instead contends throughout his career he performed in critical and leading roles in his field of expertise by holding the following positions:

- [redacted] – instructor, director, juror, and writer
- Documentary and experimental cinema center – director, producer, writer and editor
- [redacted] – member of managing board, producer, director, and art director
- [redacted] – film editor
- [redacted] – executive manager
- [redacted] – member of higher production board
- [redacted] – member
- [redacted] – member of the founding board and board of directors

As noted by the Director, while the Petitioner submitted letters to confirm some of these roles, they provided very general explanations of the Petitioner's duties in each of these roles. The Petitioner did not provide sufficient documentation to establish he played a leading role in an *organization*. For example, the documentation does not establish that he performed a leading role for an organization as a whole, such as by showing he influenced its overall reputation or status, or that he was responsible for the organization's success. Nor do the letters show that the Petitioner played a critical role as the letters primarily contain bare assertions of acclaim and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions rose to a level consistent with major significance in the field.

For these reasons, the Petitioner has not established that he meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. We therefore need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20, or render a determination on the issue of whether the Petitioner's entry will substantially benefit prospectively the United States. Accordingly, we reserve these issues.⁸

Nevertheless, we have reviewed the record in the aggregate and concluded that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Price*, 20 I&N Dec. at 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability

⁸ See *INS v. Bagamashad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). *See also Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.